UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/769,581	01/30/2004	Sameer Tannous	112025-0818	8579

24267   7590   11/20/2008
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EXAMINER
JACOBS, LASHONDA T

ART UNIT	PAPER NUMBER
2457	

MAIL DATE	DELIVERY MODE
11/20/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _22 September 2008_.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-28_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-28_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Response to Amendment

This is a Final Office Action in response to Applicant's amendment filed on September 22, 2008.

Claims 1-28 are presented for further examination.

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

2.   Claims **1-28** are rejected under 35 U.S.C. 103(a) as being unpatentable over Soon et al

(hereinafter, "Soon", U.S. Pub. No. 2004/0001443) in view of Parker (U.S. Pat. No. 5,822,520).

As per claims **1**, **8**, **15**, and **22**, Soon discloses a method, apparatus and computer readable

medium for testing a network protocol comprising:

- executing communication between a plurality of devices using said

  network protocol (paragraphs 0020 and 0031); and

- performing said modification on said one of said plurality of protocols in said protocol

  stack (paragraphs 0020 and 0031).

However, Soon does not explicitly disclose:

- receiving a command <u>comprising code</u> to modify one of a plurality of protocols in a

  protocol stack of said network protocol.

Parker discloses a method and apparatus for building network test packets comprising:

- receiving a command <u>comprising code</u> to modify one of a plurality of protocols in a protocol stack of said network protocol (abstract, col. 2, lines 46-65, col. 3, lines 9-25, col. 7, lines 45-67 and col. 8, lines 1-45).

Therefore, it would have been obvious to one of ordinary skill in the art to modify Soon by implementing or incorporating protocol-specific commands and generating test packets using a packet shell generation that issues commands to a generic common language interface for the purpose of creating, modifying, developing and testing interactively computer network protocol stacks.

As per claims **2**, **9**, **16** and **23**, Soon discloses:

- wherein said command is received in interpreted code (paragraphs 0031 and 0032).

As per claims **3**, **10**, **17** and **24**, Soon further discloses:

- determining said one of said plurality of protocols in said stack to modify responsive to receiving said command (paragraphs 0033-0035).

As per claims **4**, **11**, **18** and **25**, Soon further discloses:

- determining whether said command is adding a message to said one

  of said plurality of protocols (paragraphs 0023 and 0032-0033); and

- adding said message to said one of said plurality of protocols (paragraphs 0023 and 0032-0033).

As per claims **5**, **12, 19** and **26**, Soon further discloses:

- determining whether said command is to remove a message from said one of said plurality of protocols (paragraphs 0023 and 0032-0033); and

- removing said message from said protocol (paragraphs 0023 and 0032-0033).

As per claims **6**, **13**, **20** and **27**, Soon further discloses:

- determining whether said command is to modify an existing message in said one of said plurality of protocols (paragraphs 0023 and 0032-0033);

- removing said existing message from said one of said plurality of protocols (paragraphs 0023 and 0032-0033); and

- adding a new message to said one of said plurality of protocols including said existing message with modifications in said command (paragraphs 0023 and 0032-0033).

As per claims **7**, **14**, **21** and **28**, Soon further discloses:

- determining whether said command is to modify a state machine of said protocol (paragraphs 0018, 0036, and 0044-0045); and

- modifying said state machine of said one of said plurality of protocols responsive to said command (paragraphs 0018, 0036, and 0044-0045).

Response to Arguments

3.   Applicant's arguments filed September 22, 2008 have been fully considered but they are not persuasive.

The Office notes the following arguments:

a. Soon does not mention, suggest, or teach compiled or interpreted code according to claims 2, 9, 16 and 23.

b. Soon does not mention, suggest, or teach modifying the state machine according to claims 7, 14, 21 and 28.

In response to:

a. Applicant argues that Soon does not mention, suggest, or teach compiled or interpreted code.

Soon teaches a scripting language for access to and control of all functions of the test

environment. Therefore, Soon teaches compiled or interpreted code.

b. Applicant argues that Soon does not mention, suggest or teach modifying the state machine.

Soon teaches having access to and control of all functions of the test environment including a

protocol state machine. The protocol messages are modified which are a part of the protocol

state machine thus Soon teaches modifying the state machine.

4.   Applicant's arguments with respect to claims **1**, **8**, **15** and **22** have been considered but are

moot in view of the new ground(s) of rejection.

Conclusion

5.   The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure.

U.S. Pat. No. 6,549,882 to Chen et al

6.   Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to LASHONDA T. JACOBS whose telephone number is (571)272-

4004. The examiner can normally be reached on 8:30 A.M.-5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/LaShonda T Jacobs/
Primary Examiner, Art Unit 2457

ltj
November 18, 2008